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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/424,686	11/29/1999	GUSTAV HAGEN	BAYER10.203	8382

7590 10/06/2003
NORRIS MCLAUGHLIN & MARCUS
220 East 42nd Street
30th floor
New York, NY 10017

EXAMINER

WALICKA, MALGORZATA A

ART UNIT	PAPER NUMBER
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1652

35

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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Commissioner for Patents

Art Unit: 1652

The Response to Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures filed on June 9, 2003 as paper No. 31 is acknowledged.

The Response and Amendment under 37 CFR § 1.111 filed on July 27, 2003, as Paper No. 34 is acknowledged. The amendments have been entered as requested. Claims 16-19, 20-29 and 36-39 are cancelled. Claims 14, 15, and 20-23 are amended. Claims 14-15, 2025, 30-35 and 40-46 are pending in the Application.

Lack of compliance of nucleotide sequence disclosure with 37 C.F.R. 1.821-1.825

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth bellow and on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures.

Applicants state (page 2 of the Response) they submitted:

- 1) computer readable form of the sequence listing,
- 2) paper form of the sequence listing,
- 3) an amendment to the description and/or claims, wherein reference is made to the sequence by use of the assigned identifier, as required in 37 CFR 1.821(d).

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Ad. 1. Examiner acknowledges transmittal of computer readable form (CRF). As indicated in the enclosed Raw Sequence Listing Error Report, the CRF filed on June 9, 2003 is erroneous, because in the title description of SEQ ID NO: 12 it is said to be 4012 nucleotide long, whereas the CRF contains 4042 nucleotides in SEQ ID NO: 12.

Ad. 2. Examiner acknowledges transmittal of paper sequence listing.

The information regarding SEQ ID NO: 12 is confusing. Section <211> states the length of 4012 nucleotides, whereas section <223> points out that the sequence is 4042 nucleotides long. Finally, the actual length of the sequence as printed is 4012 nucleotides.

Ad.3. Examiner acknowledges amendments to the claims wherein reference is made to the sequence by use of the assigned identifier, as required in 37 CFR 1.821(d).

However, as indicated in the previous Office Action, paper No. 30, several primer sequences recited in the specification (pages 15, 27, 28, 29, 30, 33, 35, 37, 38), are missing in the sequence listing, both in the paper form and CRF. Therefore, Applicants have failed to comply with 37 CFR 1.821(c) and 1.821(e).

The sequences quoted on pages 15, 27, 28, 29, 30, 33, 35, 37, 38 are not identified by their sequence identification numbers. Therefore, Applicants have failed to comply with 37 CFR 1.821(d).

The examiner turns Applicants' attention to the fact that this is the 6th note

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of noncompliance issued during the prosecution of this application. Applicant is given ONE MONTH from the mailing date of this communication within which to comply with the sequence rules, 37 CFR 1.821-1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 CFR 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). Direct the reply to the undersigned. Applicant is requested to return a copy of the attached Notice to Comply with the reply.

Amendments

The amendments have been entered as requested. Claims 16-19, 20-29 and 36-39 are cancelled. Claims 14, 15, and 20-23 are amended. Claims 14-15, 20-25, 30-35 and 40-46 are pending in the Application.

As indicated in Summary of the Interview with biotechnology specialist C. Tsang, mailed to the Applicants on July 21, 2003, groups V to VIII will be examined together. However, the examination of amended claims on merit is not possible as long as the Applicants do not meet requirements of 37 C.F.R. 1.821-1.825 as requested above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Malgorzata A. Walicka, Ph.D., whose telephone number is (703) 305-7270. The examiner can normally be reached Monday-Friday from 10:00 a.m. to 4:30 p.m.

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If attempts to reach examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, Ph.D. can be reached on (703) 308-3804. The fax phone number for this Group is (703) 305-3014.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionists whose telephone number is (703) 308-0196.

Malgorzata A. Walicka, Ph.D.

Patent Examiner

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REBECCA E. PROUTY
PRIMARY EXAMINER
GROUP 1600

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Application No.: 09/424,686**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING
NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.
- ☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a Sequence Listing as required by 37 C.F.R. 1.821(c).
- ☐ 3. A copy of the Sequence Listing in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☒ 4. A copy of the Sequence Listing in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up Raw Sequence Listing.
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the Sequence Listing is not the same as the computer readable form of the Sequence Listing as required by 37 C.F.R. 1.821(e).
- ☒ 7. Other:
Applicant Must Provide:
 - ☒ An initial or substitute computer readable form (CRF) copy of the Sequence Listing.
 - ☒ An initial or substitute paper copy of the Sequence Listing, as well as an amendment directing its entry into the specification.
 - ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

For CRF Submission Help, call (703) 308-4212

For Patent software help, call (703) 308-6856

PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR RESPONSE